

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

<p>IN RE:</p> <p>RICHARD AND GENEVA HELM AND TIM AND VICKI MCCART,</p> <p style="text-align:right">Complainants,</p> <p style="text-align:center">v.</p> <p>U S WEST COMMUNICATIONS, INC.,</p> <p style="text-align:right">Respondent.</p>	<p>DOCKET NO. FCU-99-6 (C-98-272) (C-99-386)</p>
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**ORDER GRANTING ADDITIONAL TIME  
TO FILE SUPPLEMENTAL BRIEF**

(Issued January 31, 2000)

On December 21, 1999, the Utilities Board (Board) issued an order docketing two informal complaints for formal investigation and offering the parties an opportunity to file briefs on or before January 11, 2000, to supplement the arguments they have already made in the informal complaint proceedings.

On January 11, 2000, Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a motion for additional time to file its brief. In support of its motion, Consumer Advocate alleges that it served seven data requests on U S WEST Communications, Inc. (U S West), on December 30, 1999, with responses due on January 6, 2000. Consumer Advocate contacted U S West after failing to receive responses on that date and was advised that the responses would

be provided on January 10, 2000. Consumer Advocate states that it did not object to this arrangement.

However, as of the time Consumer Advocate filed its motion on January 11, 2000, Consumer Advocate still had not received responses to its data requests. Consumer Advocate proceeded to file a brief in accordance with the established schedule, but also requested an opportunity to supplement its brief following receipt of U S West's responses to the outstanding data requests. If permitted, Consumer Advocate proposes to limit its supplemental brief to the subject matter of the data requests.

On January 18, 2000, U S West filed a resistance to Consumer Advocate's motion. U S West argues that Consumer Advocate was dilatory in sending its data requests; that the requests were not properly sent on December 30, 1999, such that they should be deemed to have been served on January 3, 2000, and that the responses were provided on the morning of January 11, 2000. U S West believes Consumer Advocate is not justified in seeking permission to file a supplemental brief under these circumstances.

Later on January 18, 2000, Consumer Advocate filed a response to U S West's resistance, accompanied by its supplemental brief. Consumer Advocate noted that the parties had agreed the responses would be provided on January 10, 2000, but they were not received by Consumer Advocate until the following day, after Consumer Advocate's motion had already been filed.

The Board will grant the motion to file a supplemental brief, limited to the subject matter of the data requests. It appears from the pleadings that U S West

and Consumer Advocate agreed that U S West could provide its responses to the data requests on January 10, 2000, leaving Consumer Advocate adequate time to incorporate the responses into its brief, due the next day. U S West did not provide the responses until January 11, 2000, however, making it unreasonably difficult for Consumer Advocate to incorporate the information into its brief. It is reasonable to restore that opportunity to Consumer Advocate by permitting the filing of a supplemental brief, strictly limited to the subject matter of U S West's responses to the data requests.

**IT IS THEREFORE ORDERED:**

The motion for opportunity to file supplemental brief filed by Consumer Advocate on January 11, 2000, is granted. Consumer Advocate's supplemental brief, filed on January 18, 2000, is accepted for filing as a part of the record in this docket.

**UTILITIES BOARD**

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.  
Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 31<sup>st</sup> day of January, 2000.